



Patricia W. Perlow
Lane County District Attorney

LANE COUNTY DISTRICT ATTORNEY'S OFFICE
125 EAST 8th AVENUE, ROOM 400
EUGENE, OREGON 97401-2926
FAX ONLY (541) 682-3890
(541) 682-4261

Memo To: Lane County Media
From: District Attorney Patty Perlow
Date: December 13, 2019
RE: EPD OIS on November 30, 2019

This is a summary of the results of the investigation by the Interagency Deadly Force Investigative Team (IDFIT). I have reviewed all reports, watched all videos, spoken with investigators and the Medical Examiner and have concluded the following:

On November 30, 2019 at 12:32 a.m. – Eugene Police Officer Sam Tykol was travelling southbound on Norkenzie Street in Northeast Eugene when he observed a subject in dark clothing from head to foot walking in the road on Acacia Street. Acacia is a two block dead end road off Norkenzie, just north of the Beltline overpass.

Officer Tykol turned onto Acacia Street, passed the unknown subject, turned around at the end of the street, and headed back east toward the subject. Officer Tykol parked and exited his patrol vehicle to contact the subject. Officer Tykol did not activate his overhead lights on his patrol vehicle, so the in car video system did not activate. Officer Tykol was wearing a body camera that was activated just prior to the contact with the unknown subject. Officer Tykol contacted the subject, who was later identified as Elborio Rodrigues, also known as Elborio Rodriguez, due to the late hour, the dark clothing including a hood and partial mask, and walking in the roadway. The temperature was in the low 20s. Officer Tykol knew there had been a number of crimes reported in the area including breaking into vehicles and burglaries as this area was his regular patrol area.

Officer Tykol contacted Mr. Rodrigues, who would not provide identification or stop to converse, but grabbed some recycling from someone's bin at the curbside and put it in a trash bag he was carrying. Mr. Rodrigues ignored Officer Tykol's request for identification other than to say something like, "Have a nice day." At 12:33.08 a.m., Officer Tykol requested "code 1 cover" (back-up officers as available, not an emergency). Officer Tykol told Mr. Rodrigues he was not free to go. Mr. Rodrigues continued to ignore Officer Tykol. Officer Tykol put his hand on Mr. Rodrigues's arm and told him to sit on the ground. Mr. Rodrigues objected to being touched and asked Officer Tykol to call his sergeant. Mr. Rodrigues said he "might sit down if you call your sergeant." Officer Tykol said that he would call the sergeant if Mr. Rodrigues would sit down. At 12:33.57 a.m., Officer Tykol requested "code 3 cover" (lights and siren). Mr. Rodrigues asked if he was being detained. Officer Tykol told him he was. Mr. Rodrigues began to struggle with Officer Tykol. Mr. Rodrigues was advised he was under arrest for interfering with a police officer. Officer Tykol attempted to gain control of Mr. Rodrigues with oral instructions and trying to get his hands behind his back. Mr. Rodrigues continued to struggle and was advised he would be pepper sprayed.

Officer Tykol pepper sprayed him with no apparent effect. Mr. Rodrigues began to fight and yell. The physical fight knocked Officer Tykol's body worn camera off of his uniform and it shut off when it hit the pavement.

Officer Tykol radioed at 12:34.20 "fighting with one."

Officer Tykol reported that once Mr. Rodrigues began to fight, he dropped his weight onto Mr. Rodrigues and was on top of him on Mr. Rodrigues's back on the ground (Rodrigues was face down). Officer Tykol was trying to put Mr. Rodrigues's hands behind his back and put handcuffs on him. Mr. Rodrigues was able to get free and ran into the roadway. Officer Tykol chased him. Officer Tykol's hand mic to his radio came off in the struggle and he was unable to contact dispatch. Mr. Rodrigues stopped running, turned to Officer Tykol, took a fighting stance and began punching him. Officer Tykol fought back. He could hear sirens in the distance and knew help was coming. Mr. Rodrigues broke free and took off again. Officer Tykol chased. Mr. Rodrigues stopped and Officer Tykol tackled him to the ground and was on top of him. Mr. Rodrigues continued to punch Officer Tykol and fight until Mr. Rodrigues was able to flip Officer Tykol and get on top of Officer Tykol and continue to throw punches to his face and body. Officer Tykol had lost control of the situation and was concerned that he would lose his pepper spray, his Taser or his gun.

Officer Tykol pulled his Taser out and deployed it at Mr. Rodrigues's stomach with no effect. The subject grabbed the barrel of the Taser and drove it into Officer Tykol's crotch and then into his leg. Officer Tykol reported that his legs were totally incapacitated at that point. Officer Tykol said at that point he could tell Mr. Rodrigues was not trying to get away, but was out to hurt him. Mr. Rodrigues then put the Taser to Officer Tykol's side as they continued to struggle over it. Officer Tykol thought the subject was going to kill him. Officer Tykol reported that he just tried to keep the subject close to him until help arrived, but the subject was still punching him in the face and body and they continued fighting over the Taser. Officer Tykol reported that he was completely exhausted and his right arm was numb from the Taser. Officer Tykol thought Mr. Rodrigues was going to incapacitate him and then kill him. Officer Tykol slipped out a bit from underneath Mr. Rodrigues to create enough space to grab his firearm, a Glock G45 nine millimeter. Officer Tykol fired three times into Mr. Rodrigues's abdomen, until he stopped fighting and slid enough that Officer Tykol could get out from under him. Officer Tykol got one of Mr. Rodrigues's wrists into handcuffs, but he was still struggling.

Officer Tykol used his radio without a mic to report at 12:36.08 "shots fired." From time of reporting "fighting with one" to "shots fired," approximately two minutes elapsed. Two officers arrived at that point and helped gain control of Mr. Rodrigues, Eugene Police Officers Russell and Drumm.

Additional radio traffic:

At 12:36.48 "one in custody."

At 12:37.15 "shots fired, code 3 medics, 3 shots to abdomen."

Officer Russell reported that he arrived just after hearing the “shots fired” report on the radio. He saw Officer Tykol having difficulty getting the subject on the ground into handcuffs. Officers Russell and Drumm ran to Officer Tykol and assisted getting Mr. Rodrigues into handcuffs. Mr. Rodrigues was not complying with commands but not actively resisting. Mr. Rodrigues complained he couldn’t breathe, so the mask was removed from his face. They rolled him over and found an armed and fired Taser underneath him. Officer Tykol’s radio was on the ground without a hand mic. Officer Tykol was gasping for air and bent over. Mr. Rodrigues was bleeding from an apparent gunshot wound to the abdomen and had two Taser probes in his vest.

Officers tried to contain the bleeding of the wound and took turns performing CPR until medics arrived. Fire units arrived at the scene at 12:46 a.m. Mr. Rodrigues was declared deceased at the scene by medics at approximately 12:48 a.m.

The Inter-Agency Deadly Force Investigative Team was dispatched to the scene. Detectives from the Oregon State Police, the Lane County Sheriff’s Office, and Springfield Police Department responded. Detectives attempted to contact neighborhood residents within several blocks of the incident. There were no eye witnesses and only a few people who reported hearing anything. One person heard yelling before shots were fired. Another heard something she thought was “get on the ground” before shots were fired, but then said she couldn’t be sure. A few people reported hearing gunshots but nothing else. Many residents were gone for the holiday weekend. One resident provided video footage from their Ring doorbell which showed Mr. Rodrigues walking in the street and Officer Tykol’s patrol vehicle passing by him.

Detectives photographed the scene and gathered evidence.

IDFIT detectives responded to EPD after Officer Tykol was released from the hospital where his injuries were checked. Officer Tykol’s uniform was photographed and seized. When he removed his belt, a small piece of plastic, the “blast door” from the Taser cartridge fell to the ground. Officer Tykol was noted to have an abrasion and bruising to the forehead, abrasions to both knees and scuff marks and debris on his uniform shirt and pants. Officer Tykol also noted for detectives two marks on his left side consistent with a dry stun from a Taser. Officer Tykol’s firearm was seized, along with all magazines he carried. The round count was consistent with three shots being fired.

The Taser was located near Rodrigues’s body and ICV footage from the first responding EPD patrol vehicle showed it was under Rodrigues’s body and moved away by one of the officers. The probes were attached to Rodrigues clothing but the wire was coiled up, indicating the Taser was fired from a very close distance.

The history report of Officer Tykol’s Taser was provided and revealed that when deployed, the Taser is active for five second cycles. On November 30, 2019 at 12:36.15 a.m. and 12.36.21 a.m., the Taser was deployed which is consistent that the probes were fired first and the “drive-stun” mode was used almost immediately afterward.

The autopsy: The preliminary autopsy report indicates three gunshot wounds to the abdomen from close range, the first being near contact at the left abdomen and terminating in the tissue of the right hip (left to right, downward and slightly front to back). A slug was recovered

from the right hip. The second gunshot wound was of intermediate range to the left abdomen, terminating at the right abdominal cavity. A slug was recovered from the right abdominal cavity. The third was an intermediate range gunshot wound to the left abdomen, terminating in the right abdominal cavity where a slug fragment was recovered. The forensic pathologist also noted minor abrasions of the left and right knees, right leg below the knee and right lower back.

A preliminary drug screen was positive for methamphetamine, amphetamine, opioids and THC.

I asked the forensic pathologist if the injuries he noted and the bullet trajectories were consistent with the description of the incident by Officer Tykol (firing three times with his right hand into the abdomen of Mr. Rodrigues as Mr. Rodrigues was on top of Officer Tykol). Dr. Davis told me the injuries were consistent with the report of the incident. A Taser probe was attached to Mr. Rodrigues's black fleece jacket, but did not penetrate to the skin. A second probe was present but unattached. A black glove was on his right hand (a second glove was found at the scene).

Mr. Rodrigues's Oregon Driver's license was used to identify him by the forensic pathologist. It lists his birthday as 7/27/1979, height as 5' 8" and weight as 230 lbs. Officer Tykol is 5'10" and 180 lbs. He is 27 years old and has been with EPD since February 22, 2016.

Based upon all of the above, the use of deadly physical force by Officer Tykol was lawful under the circumstances of fighting for his life.

We expect our local law enforcement officers to keep our neighborhoods safe. Officer Tykol was engaged in good police work making contact with Mr. Rodrigues under the circumstances of the late hour, dressed in dark clothing, walking in the street of a neighborhood. But I hope EPD, and other Lane County law enforcement agencies, will review this incident and their policies to make sure they are designed to promote the safety of our officers and citizens when an officer is alone and a citizen who has committed a pedestrian violation but no observed crime, becomes uncooperative. And I hope our citizens will recognize that it is never safe to fight with law enforcement and, if you believe that a stop was unlawful, to raise that issue in a court of law.

Thank you to our law enforcement agencies who participated on the IDFIT for dedicating personnel who tirelessly put this investigation ahead of other important, pending matters.